

**FILED**

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MONTANA  
BILLINGS DIVISION

JUN 19 2018

Clerk, U.S. District Court  
District Of Montana  
Missoula

UNITED STATES OF AMERICA,

Plaintiff/Respondent,

vs.

RICHARD LYNDON MEZA,

Defendant/Movant.

Cause No. CR 11-133-BLG-DLC

NOTICE

On May 31, 2018, the United States filed notice that it intends to appeal the order granting Meza's motion under 28 U.S.C. § 2255.

A "district court's order on a § 2255 petition is not final until the court resentsences the petitioner." *United States v. Martin*, 226 F.3d 1042, 1048 (9th Cir. 2000) (discussing *Andrews v. United States*, 373 U.S. 334, 339-40 (1963)); *see also, e.g., Haynes v. United States*, 873 F.3d 954, 956-57 (7th Cir. 2017); *United States v. Hadden*, 475 F.3d 652, 662 (4th Cir. 2007). While filing a notice of appeal generally divests a district court of jurisdiction, *see, e.g., Griggs v. Provident Consumer Discount Co.*, 459 U.S. 56, 58 (1982) (per curiam), "[t]his transfer of jurisdiction . . . is not effected . . . if a litigant files a notice of appeal from an unappealable order." *Estate of Connors by Meredith v. O'Connor*, 6 F.3d 656, 658 (9th Cir. 1993); *Ruby v. Sec'y of the Navy*, 365 F.2d 385, 389 (9th Cir.

1966) (en banc), *cited in Griggs*, 459 U.S. at 58.

Sentencing will proceed as scheduled. The Court will enter judgment in the civil § 2255 matter when an amended judgment is entered in the criminal case. *See* Order (Doc. 210) at 21 ¶ 15.

DATED this 19<sup>th</sup> day of June, 2018.

A handwritten signature in black ink, reading "Dana L. Christensen", is written over a horizontal line. The signature is cursive and fluid.

Dana L. Christensen, Chief Judge  
United States District Court